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Situation of human rights in Myanmar

Report of the Secretary-General**

Summary

The present report, submitted pursuant to paragraph 16 of General Assembly resolution 68/242, covers the period from 11 August 2013 to 6 August 2014. During the reporting period, Myanmar continued the reform agenda while the country geared up for the 2015 elections. Parliament enacted fresh laws reflecting popular needs and ensuring popular accountability. Efforts continued for a nationwide ceasefire and for building the framework for a political dialogue. The tension in Rakhine did not lessen, causing widespread concern and alarm both domestically and internationally. Myanmar assumed the chairmanship of the Association of Southeast Asian Nations on 1 January 2014. The United Nations continued its wide-ranging engagement with and provision of support to Myanmar.

* A/69/150.

** The present report was delayed owing to the visit of the Special Adviser from 18 to 25 August 2014, involving a high-level engagement and making on-the-spot assessments of various issues relating to the mandate of the General Assembly.

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I. Introduction

1. The present report is submitted pursuant to paragraph 16 of General Assembly resolution 68/242, in which the Assembly requested the Secretary-General to continue to provide his good offices and to pursue his discussions on the situation of human rights, the transition to democracy and the national reconciliation process with the Government and the people of Myanmar and to report to the Assembly at its sixty-ninth session, as well as to the Human Rights Council, on the progress made in the implementation of the resolution. The report covers the period from 11 August 2013 to 6 August 2014. Separate reports by the Special Rapporteur on the situation of human rights in Myanmar were issued in September 2013 (A/68/397) and April 2014 (A/HRC/25/64).

2. Three years of reforms under the leadership of President Thein Sein have yielded progress on the core issues of the General Assembly mandate, namely, in the areas of democratization, national reconciliation and development. The reporting period also witnessed progress on other key fronts, which included the continuation of normalizing Myanmar's relations with the international community along with its active participation in regional organizations. Myanmar assumed the chairmanship of the Association of Southeast Asian Nations (ASEAN) on 1 January 2014, under the theme "Forward in Unity to a Peaceful and Prosperous Community". On 4 March 2014, before handing over the chairmanship of the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation to Nepal, Myanmar organized its third summit in Nay Pyi Taw. The country's cooperation with the European Union also expanded, including through the human rights dialogue between the European Union and Myanmar, which was held in the country on 20 May 2014. Additionally, there was continued engagement by the United Nations agencies, funds and programmes on the ground in the implementation of their respective mandates.

3. However, alongside these positive developments, the deep-seated inter-ethnic and interreligious tensions that have re-emerged around the country have given rise to further violence, loss of life, displacement of populations and destruction of property. Especially in Rakhine state, the political divide has deepened since the violent events of June and October 2012, and the rift between the Buddhist and Muslim communities further widened, while the conditions in some camps for internally displaced persons have deteriorated to intolerable levels. The United Nations and international non-governmental organizations have been affected by these rising animosities, as seen in the attack on their premises in Sittwe on 26 and 27 March 2014. These eruptions have not only resulted in increased polarization between the communities across the country along religious and communal lines, as well as increased incidents of intolerance and hate speech, but have also evoked widespread reaction within the international community. There is a concern that they could potentially undermine the reform process.

4. To help support the overall reform process and national efforts on various fronts, my Special Adviser visited Myanmar on seven occasions during the reporting period. At the same time, the United Nations continued to engage closely with Member States to help further a coordinated and constructive engagement by the international community in addressing the humanitarian, human rights and development issues, as well as in the areas of reconciliation with the ethnic groups and in bridging the communal divide, especially in the context of Rakhine. In addition to bilateral consultations in New York and Myanmar, my Special Adviser

briefed the Security Council on 19 April 2014 upon its request on the overall developments in Myanmar. Following the decision, on 26 September 2013, of my Group of Friends on Myanmar to reconfigure itself as the Partnership Group on Myanmar, I convened the first meeting of the Group on 25 April 2014, which was also attended for the first time by Myanmar, represented by the Minister for Immigration and Population Affairs, U Khin Yi. Meanwhile, preliminary contacts were also made by the Tatmadaw (defence forces) with the Department of Peacekeeping Operations to initiate an exploratory discussion about a potential contribution by Myanmar in United Nations peacekeeping. On its part, the Department set out the various standards, thresholds and norms required from troop-contributing countries in order be able to partake in United Nations peacekeeping duties.

5. In line with the rapidly changing realities and requirements in Myanmar, the United Nations Country Team is in the final stages of preparing a transition strategy aimed at supporting the country in its objective of promoting democratic governance, social cohesion and lasting peace in a sustainable, equitable and inclusive manner that respects and promotes the rights of all people within its geographic boundaries and in a manner that contributes to human security. This will include an explicit reiteration and reaffirmation by all the agencies of the core principles and values of the Organization to be applied in all of the activities of the Country Team, including: (a) the promotion of peace, security and human rights; (b) transparency; (c) impartiality and neutrality; (d) accountability; (e) conflict sensitivity; (f) participation; and (g) the commitment to ensure equity of access to all. The transition strategy will be grounded in the interconnectedness of humanitarian, development, peacebuilding and human rights issues and activities.

6. The Special Rapporteur visited the country in February 2014 and reported to the Human Rights Council thereafter. On 28 March 2014, by Human Rights resolution 25/26, the Council extended the Special Rapporteur's mandate for a further year. During the reporting period, Mr. Tomas Ojea Quintana completed his six-year term as Special Rapporteur at the end of May 2014. Ms. Yanghee Lee of the Republic of Korea was appointed as the new country mandate holder. In her new capacity, she undertook her first official visit to the country from 17 to 26 July 2014.

II. Key developments

A. Political reforms

7. During the reporting period, the gradual release of political prisoners continued in line with President Thein Sein's previous commitment to free all such prisoners by the end of 2013. A total of 73 political prisoners were released in July 2013, 69 in November 2013 and another 41 were set free in December 2013. During this time, the Special Rapporteur, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and a number of civil society organizations have continued to call for the release of all remaining prisoners, while also raising concerns about ongoing arrests and new cases of political prisoners.

8. On 2 January 2014, President Thein Sein highlighted that amending the Constitution was "necessary in order to address the national, economic and social needs of our society". He reiterated this sentiment on 2 June 2014 by stating that "we must all accept the basic rule that a living, breathing Constitution is always

evolving and changes must be made under the right conditions and at the appropriate time in harmony with society's political, economic and social needs". The amendment of the 2008 Constitution remained an important part of the internal political debate within the country.

9. After a nearly seven-month-long consultative and deliberative process, parliament established a Constitutional Review Joint Committee, comprising members from 20 political parties, in addition to representatives of the military, which submitted its report to parliament on 31 January 2014. To carry forward the process, a 31-member Amendment Implementation Committee, chaired by the Deputy Speaker of Union Parliament, U Nanda Kyaw Saw, was established. This Committee comprises 7 unelected military representatives, 14 representing the ruling, 2 from the opposition National League for Democracy and 8 representing other political parties. On 24 July, it submitted a preliminary report, which reviewed a total of 340 clauses from several sections of the 2008 Constitution, taking into consideration advice from all stakeholders, including the public, organizations, political parties and the army. The Committee is expected to submit its final recommendations to parliament for action soon.

10. Parliament held its eighth, ninth and tenth sessions and adopted key legislative measures, including an anti-money laundering bill, an anti-terrorism bill and a new association bill. On 12 August 2013, the Rule of Law and Peace and Stability Committee, chaired by Daw Aung San Suu Kyi, submitted its annual report to the People's Assembly. The report identified the lack of an independent judiciary as the major obstacle to the rule of law. Since its formation in August 2012, the Committee has received 11,259 complaints about the judicial system that have yet to be reviewed.

11. Among the proposed items of legislation that have aroused strong domestic reaction and drawn international concern was a proposed package of laws covering religious conversion, inter-faith marriage, polygamy and family planning. The petition to legislate these laws was tabled in July 2013 by a coalition of monks in the Organization for the Protection of Race, Religion and Belief, headed by a member of the government-appointed National Head Monks Committee. In March 2014, President Thein Sein called for the establishment of a committee that would consider the proposals and suggest draft laws to the Parliament. One draft bill in this package relating to a proposed regulatory mechanism for religious conversions was reportedly released for public comments. Under the proposed law, any person wishing to change his or her faith would be required to register with local government departments, comprising religious affairs, immigration, women's affairs, education and administration officials, for official approval. The draft law reportedly prohibits conversion through inducement, intimidation, undue influence or pressure and also prohibits persons from applying for conversion with intent to insult, degrade or misuse any religion. Criticizing the proposed law on inter-faith marriages, opposition leader Daw Aung San Suu Kyi described it as "retrograde" and "unnecessary" and as curbing the rights of women who currently face no such restriction in law. The Special Rapporteur and other special procedures mandate holders have also spoken out against the draft law and called for its withdrawal.

12. With preparations for the proposed general election in 2015 gathering momentum, political parties and ethnic groupings across the country are positioning themselves around institutions and personalities, competing to occupy the high ground on various constitutional, political, social and developmental issues. The

Union Election Commission has also laid down stringent rules to regulate campaigning by parties. While moves for inter-party alliances and coalition-building are at the initial stage, debates have begun to erupt on issues of constitutional reform, the role of the military, power and resource-sharing, as well as on the constitutional limitations to individual political figures vying for the highest office in the land. On the question of constitutional amendments relating to the electoral process, Daw Aung San Suu Kyi's National League for Democracy has held several mass rallies to mobilize support for constitutional amendments that would facilitate her assumption of office. Her party also held consultations on this issue with other political parties.

B. Human rights

13. There has been limited progress in the continuing negotiations between OHCHR and the Government on the setting-up of a country office in Myanmar. Establishing such an office with a fully fledged mandate would enable better cooperation between Myanmar and the United Nations in advancing human rights in the country, as proven by the experience of such offices in other countries. Despite this, OHCHR has been able to engage constructively with the Government on policy dialogue, advocacy, technical cooperation, as well as capacity development and training on a range of development, humanitarian and other issues. For example, in the light of the Government's stated intention to ratify the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, OHCHR organized a training workshop for government officials on treaty ratification procedures and obligations of States parties in July 2014. OHCHR has also engaged the national police force by providing technical and capacity-building support on human rights through pilot training programmes in Yangon, Taunggyi and Mandalay. Additionally, OHCHR engaged the Government on the proposed draft laws on religious conversion and interfaith marriage, highlighting Myanmar's international human rights obligations, including as a State party to the Convention on the Elimination of All Forms of Discrimination against Women. Meanwhile, on 28 March 2014, parliament adopted a law aimed at establishing a national human rights institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Ensuring the open and transparent selection and appointment of commissioners will be a key challenge in the future.

14. In furtherance of my annual report on children and armed conflict (S/2014/339), the United Nations has continued its efforts against the recruitment and use of children by the armed forces of the Government as well as armed groups in Myanmar. Seven non-State armed groups remain listed in the annexes to my report. The Peacebuilding Fund has provided initial financing to launch the implementation of the action plan established in pursuance of Security Council resolution 1612 (2005). In early December 2013, the Working Group of the Security Council on Children and Armed Conflict visited Myanmar to review first-hand the action plan's status of implementation and welcomed the tangible progress achieved while stressing the need for continued efforts by all concerned. I welcome the renewed commitment of the Government to the action plan framework, led by my Special Representative for Children and Armed Conflict and the country task force

established in pursuance of Security Council resolution 1612 (2005), in support of the global campaign Children, Not Soldiers to end such recruitment and use of children by Government forces by 2016. Access of the United Nations to monitoring of the armed forced has improved and 15 monitoring visits have taken place to selected operational units since August 2013, including to three border guard battalions, while access to four battalions was denied. The country task force and the Government of Myanmar have agreed to review the action plan in September 2014 with a view to accelerating compliance.

15. Meanwhile, there are concerns over increasing arrests, prosecutions and sentences against human rights activists, journalists and ordinary citizens. In early July, four journalists and an editor of the *Unity* journal were sentenced to 10 years of imprisonment with hard labour under the 1923 State Secrets Act, and charges were also brought under section 18 of the Peaceful Assembly and Peaceful Procession Act against 50 journalists who had staged a silent protest against the verdict. There are reports that those sentences are being reviewed. Although the Peaceful Assembly and Peaceful Procession Act was recently amended, it did not go far enough to address concerns raised previously by the international community regarding the law being used to restrict peaceful assembly and stifle freedom of expression. Additionally, in August 2014, President Thein Sein met with the representatives of the interim press council and tried to allay the concerns of journalists. I welcome the President's initiative to reach out to address the growing anxieties within the journalistic fraternity. Ensuring respect for the fundamental freedoms of expression, peaceful assembly and association are the cornerstones of democracy and good governance.

16. The United Nations remains committed to furthering national efforts for gender equality and women's rights. In October 2013, the Government launched its 10-year National Strategic Plan for the Advancement of Women. The United Nations is providing technical support to establish legislation to prevent violence against women and develop an operational National Strategic Plan for the Advancement of Women. This includes support to developing a national action plan on women, peace and security. Meanwhile, incidents of sexual violence continued to be reported, especially in connection with targeted violence in Rakhine state, non-state ethnic armed conflict in Kachin and northern Shan states, as well as with conflict-affected women and girls in internally displaced persons camps, who are at risk of human trafficking (see S/2014/181).

C. National reconciliation

17. Peace negotiations between the Government and ethnic armed groups have continued, thus raising hopes for, and increasing movement towards, a negotiated end to the nation's sixty year-old armed conflict brighter than at any previous juncture. President Thein Sein has articulated his overall vision of a national reconciliation process involving a nationwide ceasefire, political dialogue and the transformation of ethnic armed groups over time into legitimate national political groupings. As the momentum of the peace process advances, the participation and involvement of parliament, political parties and civil society will become increasingly important.

18. The willingness of government negotiators and ethnic armed groups to proactively reach out to each other, as well as their relative openness and

transparency, has been impressive. The regular meetings between the top leadership of the Karen National Union and the President as well as the Commander-in-Chief are notable in this regard. At the request of the Kachin Independence Organization during peace talks with the Union Peace Working Committee in Myitkyina in August 2013, the Government agreed to a meeting of 17 ethnic armed groups in Kachin Independence Organization's headquarters in Laiza to develop a collective position on the nationwide ceasefire agreement and related issues. This was followed by a meeting in Myitkyina, in early November 2013, where the Union Peace Working Committee and the ethnic armed groups that had participated in the Laiza talks discussed how to move forward on the nationwide ceasefire draft and political dialogue.

19. These important parleys also witnessed the emergence of a Nationwide Ceasefire Coordination Team, a single composite negotiating team constituting representatives of the majority of the ethnic armed groups. The formation of the Team has helped the ethnic armed groups to narrow their divergent approaches and devise a common approach in the peace talks. In subsequent negotiations between the Union Peace Working Committee and the Nationwide Ceasefire Coordination Team in April 2014, this led to the evolution of a single draft text of a nationwide ceasefire. Though a final agreement has not been reached, for the first time in the country's history, issues such as power-sharing, resource-sharing and the idea of federalism have been discussed freely and openly.

20. In July 2014, members of the Nationwide Ceasefire Coordination Team and other ethnic armed groups convened again in Laiza to further consolidate and effectively manage their position for the peace negotiations ahead. For a negotiating team built around a diverse and disparate group of organizations, the meetings highlighted the serious commitment of the Team to the peace process and the unprecedented level of coherence, unity of purpose and technical skills it had amassed over the short period of just over a year. My Special Adviser, who also attended this event, delivered a message on my behalf that underlined the need for all parties to take a "leap of faith" at this critical juncture.

21. While the discussions are at a preliminary stage and there is much more to be done to shore up mutual confidence on all sides, these developments have been a promising indication of progress. The peace process stands at a threshold and all sides have a unique opportunity to reflect the real aspirations of the people rather than any narrow agenda. The engagement of the Tatmadaw in the peace negotiations during the past months has also helped to instil greater confidence in the process. This will need to be encouraged and sustained.

22. Meanwhile, a Peace Donor Support Group, led by Norway and comprising Australia, Japan, Switzerland, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the European Union, the United Nations and the World Bank, has been working in tandem with the Government as well as the ethnic armed groups and the technical bodies connected with the peace process. The Peacebuilding Fund has also contributed to supporting these entities and the Myanmar Peace Centre in enhancing their capacities and enabling them to function better as platforms from which the Government and ethnic groups can hold informal and continuous contact.

23. Regrettably, tension continued in some areas, particularly in Kachin state, where a 17-year long ceasefire was breached in 2011. This has been troubling not

least because the Kachin Independence Organization/Kachin Independence Army is one of the stronger ethnic armed groups. While a series of negotiations have led to de-escalation, a formal ceasefire has not yet been signed. Against the backdrop of increased tensions in the border areas of Kachin, parleys between the Government and Kachin Independence Organization representatives from 8 to 10 October 2013 resulted in an agreement to form a Joint Monitoring Committee. Discussions were also held on provisions to de-escalate hostilities, establish technical teams to coordinate plans for the return and resettlement of displaced persons and cooperate on pilot projects in four villages along the Myitkina-Bhamo road. However, owing to a number of factors, including the continued suspicion and mistrust between the army and the Kachin Independence Army at the local level, efforts to implement the agreements have been undermined by renewed clashes and heightened tensions between the Tatmadaw and the Kachin Independence Army. On 13 May 2014, the Union Peace Working Committee and Kachin Independence Organization held bilateral talks in Myitkyina, where commitments from both sides on de-escalating the conflict were made. They also agreed to establish a mechanism for better mutual communication, prevent further violent clashes until the formation of a Joint Monitoring Committee, and work with the media to play a constructive role to help advance the peace process. While efforts to de-escalate hostilities have been challenging, the determination and flexibility demonstrated by the respective sides in the greater interest of peace have been commendable.

24. The lack of substantive participation of women in the peace negotiations continues to be a challenge for all parties in the peace process. While there are many women contributing at a technical level, there is little progress on including women in the negotiating teams. The United Nations has raised this point with all stakeholders.

25. In the light of ongoing skirmishes in Kachin and Shan states, the United Nations has continued to voice concern over the safety and security of civilians and called on all sides to exercise restraint. Access to humanitarian assistance for civilians affected by conflict has also been a priority and despite calls for all sides to exercise restraint, regular clashes continued to affect civilians. An estimated 100,000 people remain displaced in Kachin and Shan states as a result of the fighting that started in June 2011. Many of these internally displaced persons have been displaced for nearly three years, while sporadic fighting adds to new and renewed displacements.

26. Over 50 per cent of the 100,000 internally displaced persons are located in areas beyond Government control, where addressing the needs of those affected is affected by access and logistical challenges. During this period, international humanitarian organizations increased their presence in Kachin to complement and augment the assistance provided by local non-governmental organizations that have been the backbone of humanitarian assistance there. Some 20 international humanitarian organizations are now providing assistance throughout Kachin, and although access to affected areas is still subject to Government permissions, cross-line missions have become more regular, with 28 missions between August 2013 and June 2014. These missions have reached several areas where high numbers of internally displaced persons are in urgent and protracted need of humanitarian relief. Adequate and suitable land to shelter internally displaced persons and to start resettlement programmes continues to hamper both humanitarian and recovery efforts, although the

Government recently facilitated the resettlement of 113 households from camps outside Myitkyina to a newly built village.

27. Since May 2013, following the request of the parties, my Special Adviser, together with China's Special Envoy, Mr. Wang Yingfan, has participated in the peace negotiations between the Union Peace Working Committee and the Nationwide Ceasefire Coordination Team and between Union Peace Working Committee and Kachin Independence Organization as an official observer. My Special Adviser has continued to engage regularly with senior Government officials, the Tatmadaw and other stakeholders in the ongoing peace negotiations, including the worrisome situation in Kachin and northern Shan states. He travelled to the headquarters of the Kachin Independence Organization in Laiza in August 2013, April 2014 and July 2014 to hold dialogues with the top leadership of the Kachin Independence Organization and the Nationwide Ceasefire Coordination Team on the peace process. He also made several visits to Nay Pyi Taw to meet with the Government and military, and held talks with the Kachin state government in Myitkyina. In addition, he continued a high-level dialogue on the need to facilitate unhampered access for humanitarian agencies.

28. Additionally, my Special Adviser continued to hold informal consultations with all stakeholders, including civil society representatives of various ethnic groups, to help build greater trust and cooperation among the diverse national actors. I shall continue to lend the assistance of my good offices to Myanmar's peace process to help bolster cooperation between the Government and ethnic armed groups. The national ownership of the peace process in Myanmar and the responsibility and commitment showed by stakeholders on all sides clearly demonstrate the strong determination of the people of Myanmar to realize their aspirations for peace and reconciliation after generations of internal strife. I would like to convey my strong encouragement and respect to these efforts and to everyone involved in the peace process and to urge them to make the final crucial compromises needed to reach a nationwide ceasefire. This will enable Myanmar to embark very soon on a process of political dialogue that could determine the contours of the nation's future definitively. The United Nations will stay committed to the peace process throughout and contribute to the political dialogue envisioned by the stakeholders.

D. Socioeconomic development

29. In September 2013, President Thein Sein announced that the second half of his mandate would focus on rural development and improving livelihoods and basic needs for the people through the provision of drinking water, water for irrigation, electricity, better communication facilities, job opportunities and better agricultural programmes. The announcement was made against a backdrop of low social indicators, as evidenced by the 2014 Human Development Report, which ranked Myanmar 150 out of 187 countries, and by reports of a lack of significant improvement in the living conditions of the majority of the population and a growing divide between rich and poor.

30. The Government of Myanmar conducted a population and housing census from 30 March to 10 April 2014 with support from the United Nations Population Fund (UNFPA) and other donors. The previous census was conducted in 1983. A National Advisory Committee was established to advise the Government on various aspects

of the census, comprised of civil society organizations, ethnic and religious representatives, Government ministries and United Nations agencies, while an International Technical Advisory Board of 15 international census experts advised the Government to ensure credibility of the census and its compliance with international guidelines. At the invitation of the Government, an independent team of international and national census experts observed the census enumeration across the country. They found that, overall, the census was conducted in line with international guidelines in all parts of the country, with the exception of parts of Rakhine state. In Rakhine state, despite assurances that all respondents would be able to self-identify on ethnicity and religion, the Government reversed this position and eventually decided against allowing the predominantly Muslim community to self-identify as "Rohingya". This last-minute change was ascribed to security concerns in order to avert civil unrest and inter-communal tensions. Also, in Kachin and Kayin states, a total of 237 census enumeration areas, where conflict continues, were not enumerated. Data processing and analysis are currently under way at the Ministry of Immigration and Population, with preliminary results expected to be released by August 2014, followed by a second data release expected in May or June of 2015 and thematic analyses of the data made available towards the end of 2015.

31. Conducting a census in a highly volatile situation with internal conflict and communal tensions has been controversial. While UNFPA will continue to provide advice and support to the Government in its effort to encourage greater transparency and trust-building during the remaining stages of the census exercise, Myanmar's international partners must remain conscious of the diverse and difficult transitions the country is going through and the continuing need for caution in making policy recommendations. While seeking to help the country advance, we will need also to guard against causing unintended harm. We will need, above all, to recognize the country's complex ethnic and religious fabric and its history.

32. Myanmar's economy is reported to have grown by 7.3 per cent in the period 2012-2013 and is predicted to grow by 8.5 per cent in the period 2014-2015. Much of this growth was driven by increased gas production, construction, services and foreign direct investment (FDI). Key to this result have been the reforms aimed at creating macroeconomic management infrastructure and capacity as well as a modernized financial sector. A favourable outlook will depend on progress on these initiatives, the completion of the transition of the Central Bank of Myanmar to an autonomous institution, an enhanced capacity to support macroeconomic stability as well as a modernized financial sector, which would improve access to credit.

33. While pursuing wide-ranging economic reforms, the capacity of the authorities to implement them and absorb international assistance was stretched. Though an FDI law was enacted in 2012, its implementing rules have lacked clarity and caused uncertainty about the protection of investment. The flow of foreign investments has thus been slower than anticipated. The World Bank ranked Myanmar 182 out of 189 countries this year in its annual survey on the ease of doing business around the world. The 2014 Myanmar Business Survey highlighted that corruption, the lack of skilled labour and scarcity of technology remained the main obstacles to the economic development in the country.

34. Much of the accumulated pledged amount of FDI has targeted the oil, gas and power sectors, followed by manufacturing, mining and tourism. According to the United Nations Conference on Trade and Development figures, FDI flows reached

$2.621 billion in 2013 from $2.243 billion in 2012. Foreign companies won tenders for oil and gas exploration and nationwide telecommunications licenses were granted to two foreign telecommunication companies. The Kyaukphyu-Kunming natural gas pipeline, also known as the Shwe Gas pipeline, became fully operational. The Government also developed a comprehensive strategy for a special economic zone project in Rakhine state and opened bids for its development. Similar progress was registered in the Dawei zone and the Thilawa zone.

35. In many of these projects, there were strong public protests against land grabbing and adverse environmental impacts and demands for proper compensation. Following earlier protests at the Letpadaung copper mine and the issuance of the report of the investigation commission, a committee was established to implement its recommendations. The committee suggested measures to ensure that the state and local populations adequately benefited from the projects. It also returned some of the confiscated land to farmers, though land grabbing remains a problematic issue across the country. The Farmland Investigation Commission, established by parliament in July 2012, continued its work throughout the past year. In September 2013, it referred 745 cases of alleged land grabs to the Land Use Management Committee and, in February 2014, the Commission set September 2014 as a deadline for the Government to resolve pending cases of land grabbing. In a significant development, Myanmar's application to become a candidate for the Extractive Industries Transparency Initiative was approved on 2 July. This commits the country to extensive disclosure and improved accountability in the measurement of oil, gas and minerals and to publish its first Initiative report within an 18-month period.

36. Implementation of the 2013 Nay Pyi Taw Accord for Effective Development Cooperation and the Government's Framework for Economic and Social Reforms continues at a brisk pace. Seventeen Government-led sector working groups are now operational, which have brought together the Government, development partners, international non-governmental organizations and civil society to facilitate development cooperation at the sector level. In January, Myanmar held its second development cooperation forum under the theme of accelerating actions for progress through enhancing inclusive coordination. Following last year's trend, more Member States cancelled debts owed by Myanmar and provided grants and increased cooperation in support of reform in the country. At the end of the first European Union-Myanmar task force to support the country's economic reform and democratic transition, Myanmar emerged as one of the leading beneficiaries of European Union development cooperation in Asia. While still subject to final approval of the European Union, the cooperation could bring in $90 million per annum, a 20 per cent increase from current levels. The World Bank and the Asian Development Bank announced support to development programmes with the aim of improving the standard of living and reducing rural poverty.

37. While recognizing general progress in the reforms, some Member States have renewed sanctions against Myanmar during the past year. The European Union suspended its sanctions for another year, with the exception of an arms embargo on equipment that could be used for internal repression. On other fronts, an anti-corruption law was approved in July 2013, and in February 2014, the President proposed forming an independent commission comprising respected government staff without direct affiliation to the legislative, administrative and judicial branches to tackle corruption in the country.

E. Rakhine state

38. The situation in Rakhine state continues to cause widespread concern and alarm both domestically and internationally. Sporadic violence in the state continued during the reporting period, including on 29 September 2013, when violence in Thandwe township left seven people dead, 480 displaced and numerous homes and businesses destroyed. On 2 November 2013, more violence followed in Pauktaw, where four people died and at least three were seriously injured. In early January 2014, violent incidents were reported in Du Chee Yar Tan village of Maungdaw township. Reports of the disappearance of a police officer and alleged killings of several local Muslims caused concern within the international community.

39. During his visit to the country in January, my Special Adviser met with Government leaders, including Vice President U Sai Mauk Kham, who also chairs the Committee for Stability and Development of Rakhine state, and drew attention to these developments. In line with the core principle of the United Nations underlining the protection of civilian lives and the safeguarding basic human rights, my Special Adviser urged the authorities to take firm action against the perpetrators of targeted attacks and to ensure security for members of all communities. Regarding the incidents in Maungdaw township in Rakhine, an initial investigation report by the local United Nations team highlighted the strong possibility of violence having targeted a large number of Muslim residents of the area. This report, when brought to the attention of the authorities, was rejected as unfounded. Meanwhile, the Government set up four related inquiries, including one established by President Thein Sein, none of which found evidence of mass killings of members of the Muslim community. The United Nations reiterated that its report was based on tested methodologies and on facts reported by credible witnesses. The different versions have remained unreconciled to date.

40. The Organization of Islamic Cooperation (OIC) reflected its concern about the situation in Rakhine state and elsewhere in the country by despatching a ministerial delegation to Myanmar in November 2013. A joint communiqué released during the visit addressed humanitarian issues affecting the population in Rakhine state. In May, OIC appointed Tan Sri Syed Hamid Albar, former Foreign Minister of Malaysia, as its Special Envoy to Myanmar to explore further cooperation with regard to Rakhine state. Myanmar has indicated its readiness to work constructively with the OIC Special Envoy.

41. At the end of March, organized groups of Rakhine individuals selectively targeted, attacked and looted the premises and properties of the United Nations and a number of international non-governmental organizations in Sittwe. These acts resulted in property damages of over $1 million and the temporary relocation of some 300 aid workers, as well as a month-long suspension of aid support to affected local populations. The ostensible provocation for these attacks was the removal from the premises of an international aid agency of a Buddhist flag planted by protesters demonstrating against moves to allow "self-identification" of the "Rohingya" population in Rakhine state in the nationwide census. In the disturbances that followed, an 11-year-old girl succumbed to bullet injuries as security forces sought to quell unruly mobs. Several United Nations staff, international and national, had to be relocated and additional police presence deployed for their protection.

42. On 30 March, in a telephone conversation with President Thein Sein, I drew attention to the responsibility of the Government of Myanmar to respect the inviolability of United Nations personnel and premises in the country. I also underlined the need for the United Nations to strengthen its future presence in Rakhine state to address the significant humanitarian, human rights and development needs. In doing this, the United Nations would seek to be mindful of security considerations and take particular care to ensure that our approach does not unintentionally exacerbate tensions in an already complex and volatile situation. Promising firm action against the perpetrators, President Thein Sein set in motion a series of measures for restoring order and for emergency coordination of the priority humanitarian work being done by the United Nations and international non-governmental organizations. Local authorities have continued to work with the Country Team and others to ensure both the early resumption of their normal functioning as well as adequate protection for all members of United Nations agencies and humanitarian aid agencies. In addition, the United Nations continues to calibrate its presence and programmes in Rakhine to reinforce its neutrality and transparency in order to reach those most in need.

43. By the end of April, most international humanitarian organizations had resumed activities. However, the previous February suspension of Medecins Sans Frontières and the suspension of Malteser International following the March attacks remained. On 23 July 2014, the Government announced that Medecins Sans Frontières and other health organizations could resume activities in the state, although as of early August, modalities for restarting Medecins Sans Frontières programmes continued to be discussed. While around 70 per cent of Sittwe-based staff have been able to resume their work, insufficient housing and office space, as well as continued opposition from the local population, have constrained full resumption of activities.

44. The combined effects of the March attacks and reduced humanitarian health capacity from mobile health teams have added to the state's precarious health situation. However, with new capacity added through health teams under the Ministry of Health umbrella, monthly consultations have been brought back to pre-attack levels, although quality of care and the handling of emergency referrals remain serious concerns. Services for the vulnerable in hard-to-reach internally displaced persons camps and the northern part of Rakhine state remain precarious, and the dearth of health partners on the ground makes it a major challenge to monitor mortality and morbidity to present a clear picture of needs and gaps.

45. On 1 August 2014, President Thein Sein called upon the people in Rakhine state to cooperate with the Government and aid groups to implement the plan in order to bring peace and development to the state. In his meetings with various national leaders, including with the Speaker of parliament, my Special Adviser has repeatedly underscored to the authorities the importance of implementing strong measures to prevent and punish hate speech and incitement of inter-communal violence. My Special Adviser has also actively reached out to civil society groups in Myanmar and encouraged them to pursue various initiatives to counter hate speech at the grass-roots level. From 30 November to 1 December 2013, he participated in a civil society forum on peace, national harmony and State-building, held in Yangon. The event provided an opportunity for the President and Government to engage widely with civil society organizations on nation-building and for community representatives, including those of religious bodies, to engage on

addressing communal tensions. Separately, a workshop organized under the auspices of the Dangerous Speech Project in Yangon from 17 to 19 June 2014 brought together participants from various regions of Myanmar, including Rakhine state, as well as from Bosnia and Herzegovina, Cambodia, Egypt, Hungary, India, Indonesia, Kenya and Nigeria. The workshop allowed for a discussion of the role of inflammatory speech in conflict and the respect for freedom of speech.

46. While the Government of Myanmar has repeatedly made strong statements of actions to be taken against perpetrators of violence, these have not been conveyed with sufficient firmness to the local level. I would like to reiterate my call to the country's top leaders to issue a joint appeal to the people of Myanmar to urgently abjure all acts of violence and hate speech, to respect the rule of law and promote interfaith harmony and understanding.

47. I welcome the recent establishment by Presidential decree of a centre for diversity and national harmony in Yangon. This centre was set up with the overall objective of bridging the gap between communities, promoting harmony and peaceful coexistence and establishing early warning systems and building capacity among government bodies and civil society with the goal of detecting areas of potential tension and friction among the communities. This initiative is among the various projects supported by the Peacebuilding Fund in Myanmar and has already begun to work on bringing together community leaders inside the country to restore dialogue and discussion among them. Critical to this discussion is the need to address the root problems underlying the communal polarization through a realistic and substantive solution to the issue of status and citizenship for the vulnerable populations now living in the internally displaced persons camps and elsewhere. An effective process of verification and citizenship will be an important step towards that end.

48. The appointment of a new Chief Minister in Rakhine state has come at a critical moment. Meeting with the different communities of the state on 26 June 2014, Chief Minister Maung Maung Ohn reassured the people of the state of his commitment to improving the overall economic condition and living standards of the local population as well as restoring stability to the region. His appointment coincided with the announcement of the Government's Action Plan for Rakhine. Recommendations of the Rakhine Commission of Inquiry in 2013, together with the Rakhine state Action Plan (2014-2017), provide the basis for a solid foundation upon which to restore fundamental human rights in Rakhine state regardless of race, language or religion. The Chief Minister's proactive engagement with the United Nations and the community of international non-governmental organizations has been a welcome development. While doing this, I hope the governmental authorities and agencies at the central and local levels are able to allay the concerns of the international community about the situation in Rakhine state. This should include moving forward the process of verification and citizenship for the "Rohingyas", including the displaced and addressing the long-standing discrimination against the Rohingya community within a mechanism that conforms to the law of the land as well as recognized humanitarian and human rights principles.

49. The past trend of risky migration patterns of the Rohingya population to other countries continues. An estimated 86,000 people have departed in irregular boat movements since June 2012. This includes more than 16,000 people in the second half of 2012, some 55,000 in 2013 and nearly 15,000 from January to April 2014.

While it is difficult to gather reliable information given the clandestine nature of these movements, 615 people are reported to have died in 2013 compared with 730 during the second half of 2012, the decrease being attributed to the use of larger, more stable cargo boats. Smuggling networks associated with these movements are reported to be thriving. Accounts from people surviving the journey talk of horrific conditions during and after the long, dangerous sea trip, including reports of people being held for ransom in smugglers' camps in the jungles and hills near the Thailand-Malaysia border.

50. ASEAN Member States continued to view the communal violence in Myanmar and the underlying causes as an internal matter. However, the regular outflow of refugees fleeing to neighbouring ASEAN countries is complicating this stance, particularly at a time when Myanmar occupies the chairmanship of ASEAN. Most countries of the region would prefer that a consultative and consensus-based process be taken, rather than a broader international approach. Widespread concern among some Member States, human rights and civil society groups as well as within OIC reinforces the need to identify avenues to address the root causes related to citizenship and statelessness, as well as the humanitarian and human rights issues connected with the plight of the Rohingya.

51. Though more than two years have elapsed since the outbreak of the violence in Rakhine state and its spread to other parts of the country, there has been little progress in resolving the underlying issues that initially gave rise to communal tensions and ensuring accountability for those carrying out criminal acts. The displaced communities have, for the most part, not been able to return to their former homes. Legal proceedings against the perpetrators remain blocked and the suffering and complaints of the affected people, especially the Muslim communities in the internally displaced persons camps, whose basic rights have been severely curtailed, remain largely unassuaged.

52. A curfew was imposed in Mandalay after an outbreak of violence in early July 2014 that killed two people and injured dozens. The authorities responded quickly by deploying security forces to restore law and order and mobilizing public support from members of the different communities in order to prevent an escalation of the situation. In the wake of the violence in Mandalay, the President in a public address highlighted that "Since our country is multicultural, multi-ethnic and multi-religious, it is only through embracing harmonious relationships with each other that we will nurture democratic practices and achieve a developed and open society".

III. Observations

53. The Government of President Thein Sein is now in the fourth year of its tenure. Myanmar has a vigorously functioning parliament, active engagement and public debate by parties and civil society organizations on a wide range of issues of national concern, with open and relatively unfettered involvement of the media. Over 10 sessions held in the span of three years, parliament has met separately as well as in joint sessions and considered over 100 bills covering a range of national concerns. The way parliament has exercised its authority, reflecting popular needs and ensuring accountability, has been quite impressive. Nevertheless, it is clear that the process is still evolving and more institutional reforms are needed.

54. As efforts continue for a nationwide ceasefire and for building the framework for a political dialogue, my Special Adviser will work to provide necessary support from the United Nations on critical issues in accordance with the comfort level of, at the request of and in agreement with all sides concerned. Despite the strong differences that remain, I am persuaded that there is enough goodwill and sincerity on all sides to bring the negotiations to a fruitful conclusion.

55. A major test for the new system will be how these changes meet the political interests and aspirations of the country's diverse political, ethnic and religious groups and how effectively these groups build and legitimize new national institutions. One important event in this context will be the 2015 general election, which will be one of the elements in assessing the state of the democratic reform in Myanmar. As a first step, addressing the legitimate concerns of various political parties about the restrictions and conditionalities imposed by the Election Commission will be important. The provision of technical electoral support from the United Nations to the Government will be determined by an electoral needs assessment mission, which will be conducted in the near future by the Electoral Assistance Division of the Department of Political Affairs, following a request from Myanmar's Union Election Commission.

56. Revisiting the 2008 Constitution will be an important issue on the political agenda. Notwithstanding the current controversies over the amendment of technical provisions such as article 59(f) and article 436, which set the guidelines for the appointment of the President and for amending the constitution respectively, if the power structures are to be truly democratized, it will be important to address the power-sharing arrangements with ethnic groups within a federal governance structure. Also crucial will be the question of finding a stable and phased manner to place under civilian structures those various layers of Government currently under military control. Clearly, any amended Constitution must provide non-discriminatory access for all contenders to top Government posts. Equally critical will be to ensure that the evolving democratic culture does not aggravate confrontation between communities or ethnic groups but rather be open and inclusive.

57. While the general momentum of the political reforms has remained on a positive trajectory and shown some promising signs, opposition parties and leaders, as well as civil society, have complained about the narrowing of democratic space in Myanmar. While these critiques will inevitably be seen in the broader context of the progress of reform in the country and the political climate surrounding the upcoming elections, continued legislative reform in line with international standards and improvements in functioning of some key institutions, such as the Union Election Commission, will be necessary.

58. Progress made on the development front will have direct implications for political stability, since meeting public expectations is at the core of any democratic process. The leveraging of Myanmar's developmental agenda to address key challenges of fighting poverty, bringing jobs to its young people and modernizing its structure of governance while building an open market economy with wider linkages across the outside world will be an essential pillar for the country's democratization process.

59. While human rights concerns and the communal violence of the past few years have, at times, overshadowed the progress made by the country, the political transition in Myanmar and the commitment of its Government towards a strong

developmental agenda have on the whole held ground. This commitment to a democratic future is shared as much by the Government as by the Parliament, the Defence Forces and the Opposition, even if in varied nuances. As President Thein Sein transitions into his final year in office and the country prepares for the elections in 2015, I believe the international community should continue to provide support to Myanmar along this path of democratization, reform, respect for human rights and stable economic growth and towards a more harmonious and inclusive society.

60. The understanding and support extended to my Special Adviser in his efforts to reach out to all relevant stakeholders in Myanmar has been invaluable. While reaffirming the need for continued constructive engagement between the United Nations and Myanmar through a fully fledged country programme, I would like to invite Member States to assess the continuation of my good offices during the coming year as the country moves towards the decisive phase of the 2015 elections, fulfilling its reform agenda and an entirely new phase of national reconciliation. Taking note of the expression of support from Member States for my good offices and recognizing that the United Nations can offer much constructive assistance in maintaining and reinforcing the positive trajectory of the reform process, I urge the international community to positively consider recalibrating the mandate of my Special Adviser to focus on the areas of democratic reform, peace process support and the strengthening intercommunal cohesion.